APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,871	01/16/2002	Dave Hamilton	3992P005X	2182

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EXAMINER
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ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _10 March 2003_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-34_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-34_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _04/22/02, 03/10/03_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Art Unit: 3621

1.   The following is a quotation of 35 U.S.C. § 103 which forms

the basis for all obviousness rejections set forth in this Office

action:

> A patent may not be obtained though the invention is not
> identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that
> the subject matter as a whole would have been obvious at the
> time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which
> the invention was made.
>
> Subject matter developed by another person, which qualifies
> as prior art only under subsection (f) or (g) of section 102
> of this title, shall not preclude patentability under this
> section where the subject matter and the claimed invention
> were, at the time the invention was made, owned by the same
> person or subject to an obligation of assignment to the same
> person.

2.   Claims 1-34 are rejected under 35 U.S.C. § 103 as being

unpatentable over Ahmad(5925127) or Ananda(5638513) in view of

Archibald et al(5825883).

         Regarding claim 1, Ahmad(See Abstract, Figs. 2-5b,

Col. 2, lines 10-50, Col. 3, lines 35-60, Col. 4, lines 15-40,

col. 8, lines 55-65, Col. 9, lines 1-15, col. 10, lines 50-65,

and claims 1-24) or Ananda (See Figs. 1-2, 4-6, 7b, 10a, 10c,

Col. 3, lines 45-65, Col. 4, lines 1-50, Col. 5. lines 30-40 and

claims 1-16) disclose a means for renting software between a

server having databases and a computing device(user) which

includes monitoring and charging on a per use basis substantially

as claimed. The differences between the above and the claimed

invention is the use of explicit upload of use data. It is noted

that the rental transaction monitors on a per use basis by means

of counters which must be communicated to the transaction log

databases which is functionally equivalent to the claim

limitations. Archibald et al (See Figs. 2, 6,7 and 18) show the

uploading of usage data from a user to a server database in a

software rental environment. It would have been obvious to the

person having ordinary skill in this art to provide a similar

arrangement for Ahmad or Ananda because usage uploads are

conventional functional equivalents of the claim limitations in

order to pay for rental use of digital assets. Regarding the

usage count limitations of claim 2, Ahmad(See Abstract, Figs. 2-

5b, Col. 2, lines 10-50, Col. 3, lines 35-60, Col. 4, lines 15-

40, col. 8, lines 55-65, Col. 9, lines 1-15, col. 10, lines 50-

65, and claims 1-24) or Ananda (See Figs. 1-2, 4-6, 7b, 10a, 10c,

Col. 3, lines 45-65, Col. 4, lines 1-50, Col. 5. lines 30-40 and

claims 1-16) disclose renting software between a server having

databases and a computing device(user) which includes monitoring

and charging on a per use that are conventional functional

equivalents of the claim limitations. Regarding use limitations

of claim 3, Archibald et al (See Figs. 2, 6,7 and 18) show the

uploading of usage data from a user to a server database in a

software rental environment including a use field that is

conventional functional equivalent of the claim limitations.

Regarding clearing limitations of claim 4, each of the items of

evidence include a counter means which must be cleared when data

is uploaded to prevent dual charging for the same use that is conventional functional equivalent of the claim limitations. Regarding the audio limitations of claim 5, Archibald et al (See Figs. 2, 6,7 and 18 and claim 4) show the rental of an audio file that are conventional functional equivalents of the claim limitations. Regarding unique identifiers limitations of claim 6, Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of usage data from a user to a server database in a software rental environment including a unique id (See Col. 11, lines 5-20) that is conventional functional equivalent of the claim limitations. Regarding unique identifiers and key limitations of claim 7, Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of usage data from a user to a server database in a software rental environment including a unique id and encryption keys(See Col. 11, lines 5-20) that is conventional functional equivalent of the claim limitations. Regarding unique identifiers and key limitations of claim 8, Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of usage data from a user to a server database in a software rental environment including a unique id and encryption keys (See Col. 11, lines 5-20) that is conventional functional equivalent of the claim limitations because challenge response is a conventional encryption scheme. Regarding key limitations of claim 9, Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of usage data from a user to a server database in a software rental environment including a

unique id and encryption keys (See Col. 11, lines 5-20) that is

conventional functional equivalent of the claim limitations

because hashing is a conventional encryption scheme. Regarding

memory limitations of claim 10, each of the cited references show

memories that are secure that is conventional functional

equivalent of the claim limitations. Regarding number

limitations of claim 11, Archibald et al (See Figs. 2, 6,7 and

18) show the uploading of usage data from a user to a server

database in a software rental environment including serial number

(see claim 16) that is conventional functional equivalent of the

claim limitations. Regarding purchase limitations of claim 12,

Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of

usage data from a user to a server database in a software rental

environment a purchase request that is conventional functional

equivalent of the claim limitations. Regarding credit limitations

of claim 13, each of the items of evidence employ credit

accounts(see Archibald et al element 61) that is conventional

functional equivalent of the claim limitations. Regarding network

limitations of claim 14, each of the items of evidence employ

networks(see Archibald et al element 12) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 15 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 16 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 17 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 18 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations.   Regarding claim

19, Ahmad(See Abstract, Figs. 2-5b, Col. 2, lines 10-50, Col. 3,

lines 35-60, Col. 4, lines 15-40, col. 8, lines 55-65, Col. 9,

lines 1-15, col. 10, lines 50-65, and claims 1-24) or Ananda (See

Figs. 1-2, 4-6, 7b, 10a, 10c, Col. 3, lines 45-65, Col. 4, lines

1-50, Col. 5. lines 30-40 and claims 1-16) disclose a method for

renting software between a server having databases and a

computing device(user) which includes monitoring and charging on

a per use basis substantially as claimed. The differences between

the above and the claimed invention is the use of explicit upload

of use data. It is noted that the rental transaction monitors on

a per use basis by means of counters which must be communicated

to the transaction log databases which is functionally equivalent

to the claim limitations. Archibald et al (See Figs. 2, 6,7 and

18) show the uploading of usage data from a user to a server

database in a software rental environment. It would have been

obvious to the person having ordinary skill in this art to

provide a similar arrangement for Ahmad or Ananda because usage

uploads are conventional functional equivalents of the claim

limitations in order to pay for rental use of digital assets.

Regarding the usage count limitations of claim 20, Ahmad(See

Abstract, Figs. 2-5b, Col. 2, lines 10-50, Col. 3, lines 35-60,

Col. 4, lines 15-40, col. 8, lines 55-65, Col. 9, lines 1-15,

col. 10, lines 50-65, and claims 1-24) or Ananda (See Figs. 1-2,

4-6, 7b, 10a, 10c, Col. 3, lines 45-65, Col. 4, lines 1-50, Col.

5. lines 30-40 and claims 1-16) disclose renting software between

a server having databases and a computing device(user) which

includes monitoring and charging on a per use that are

conventional functional equivalents of the claim limitations.

Regarding use limitations of claim 21, Archibald et al (See Figs.

2, 6,7 and 18) show the uploading of usage data from a user to a

server database in a software rental environment including a use

field that is conventional functional equivalent of the claim

limitations. Regarding clearing limitations of claim 22, each of

the items of evidence include a counter means which must be

cleared when data is uploaded to prevent dual charging for the.

same use that is conventional functional equivalent of the claim

limitations. Regarding the audio limitations of claim 23,

Archibald et al (See Figs. 2, 6,7 and 18 and claim 4) show the

rental of an audio file that are conventional functional

equivalents of the claim limitations. Regarding unique

identifiers limitations of claim 24, Archibald et al (See Figs.

2, 6,7 and 18) show the uploading of usage data from a user to a

server database in a software rental environment including a

unique id (See Col. 11, lines 5-20) that is conventional

functional equivalent of the claim limitations. Regarding unique

identifiers and key limitations of claim 25, Archibald et al (See

Figs. 2, 6,7 and 18) show the uploading of usage data from a user

to a server database in a software rental environment including a

unique id and encryption keys(See Col. 11, lines 5-20) that is

conventional functional equivalent of the claim limitations.

Regarding memory limitations of claim 26, each of the cited

references show memories that are secure that is conventional

functional equivalent of the claim limitations. Regarding

number limitations of claim 27, Archibald et al (See Figs. 2, 6,7

and 18) show the uploading of usage data from a user to a server

database in a software rental environment including serial number

(see claim 16) that is conventional functional equivalent of the

claim limitations. Regarding purchase limitations of claim 28,

Archibald et al (See Figs. 2, 6,7 and 18) show the uploading of

usage data from a user to a server database in a software rental

environment a purchase request that is conventional functional

equivalent of the claim limitations. Regarding credit limitations

of claim 29, each of the items of evidence employ credit

accounts(see Archibald et al element 61) that is conventional

functional equivalent of the claim limitations. Regarding network

limitations of claim 30, each of the items of evidence employ

networks(see Archibald et al element 12) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 31 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 32 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 33 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations. Regarding

encryption limitations of claim 34 each of the items of evidence

employ encryption(see Archibald et al Fig.9) that is conventional

functional equivalent of the claim limitations.

Any inquiry concerning this communication should be directed

to Salvatore Cangialosi at telephone number **(571) 272-6927**. The

examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday

through Friday. If attempts to reach the examiner by telephone

are unsuccessful, the examiner's supervisor, James Trammell, can

be reached at **(571)272-6712**.

Any response to this action should be mailed to:

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to (703)872-9306

Hand delivered responses should be brought to

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          401 Dulany Street
          Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of
this application or proceeding should be directed to the
Technology Center 3600 Customer Service Office whose telephone
number is **(703) 306-5771**.

Information regarding the status of an application may be
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Business Center (EBC) at 866-217-9197 (toll-free).

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